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General Assembly

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Appointments to fill vacancies in subsidiary organs and other appointments:

Appointment of the judges of the United Nations Dispute Tribunal

Appointment of the judges of the United Nations Appeals Tribunal

Appointment of judges of the United Nations Appeals Tribunal and of the United Nations Dispute Tribunal

Memorandum by the Secretary-General

I. Introduction

1. By its resolution 62/228 on administration of justice at the United Nations, the General Assembly decided, among other things, to establish a two-tier formal system of administration of justice, comprising a first-instance United Nations Dispute Tribunal and an appellate-instance United Nations Appeals Tribunal.

2. In the same resolution, the General Assembly decided that the judges of the Tribunals were to be appointed by the Assembly on the recommendation of the Internal Justice Council.

3. The statutes of the Tribunals were adopted by the General Assembly in its resolution 63/253. The statute of the Appeals Tribunal was subsequently amended in resolutions 66/237 and 69/203. The statute of the Dispute Tribunal was subsequently amended in resolution 69/203.

4. By its decisions 63/417 A, 63/417 B and 63/418, the General Assembly appointed the judges of the Tribunals on the basis of the recommendations of the Council (see A/63/489 and Add.1) and pursuant to the procedures outlined by the Secretary-General (see A/63/700 and Add.1 and A/63/701 and Add.1). The Tribunals became operational on 1 July 2009.

5. The following seven judges are currently serving on the United Nations Appeals Tribunal: Sophia Adinyira (Ghana), Rosalyn M. Chapman (United States of America), Mary Faherty (Ireland), Richard Lussick (Samoa), Luis María Simón

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(Uruguay), Deborah Thomas-Felix (Trinidad and Tobago) and Inés Weinberg de Roca (Argentina).

6. Effective 30 June 2016, the terms of office of four of those Judges will expire: Judge Weinberg, Judge Simón, Judge Adinyira and Judge Faherty.

7. The following eight judges are currently serving on the United Nations Dispute Tribunal: Vinod Boolell (Mauritius), Rowan Downing (Australia), Memooda Ebrahim-Carstens (Botswana), Alessandra Greceanu (Romania), Nkemdilim Amelia Izuako (Nigeria), Thomas Laker (Germany), Goolam Hoosen Kader Meeran (United Kingdom of Great Britain and Northern Ireland) and Coral Shaw (New Zealand).

8. Effective 30 June 2016, the terms of office of the following three judges will expire: Judge Boolell (full-time judge based in Nairobi), Judge Laker (full-time judge based in Geneva) and Judge Shaw (half-time judge).

9. It is therefore necessary for the General Assembly, during its seventieth session, to take the following actions:

(a) Appoint four judges to the United Nations Appeals Tribunal for a term of seven years starting on 1 July 2016;

(b) Appoint a full-time judge to the United Nations Dispute Tribunal based in Geneva for a term of seven years starting on 1 July 2016;

(c) Appoint a full-time judge to the United Nations Dispute Tribunal based in Nairobi for a term of seven years starting on 1 July 2016;

(d) Appoint a half-time judge to the United Nations Dispute Tribunal for a term of seven years starting on 1 July 2016.

II. Internal Justice Council

10. In its report (A/70/190), the Council recommended to the General Assembly eight candidates for the four vacant positions in the Appeals Tribunal and two candidates for each of the three vacant positions in the Dispute Tribunal. The names of those candidates are indicated in the report and reproduced in paragraphs 13 to 15 of the present memorandum.

11. A full public process was instituted, in accordance with paragraph 45 of General Assembly resolution 65/251, to identify suitable candidates for presentation to the Assembly. The Council received 182 applications from 51 countries and, following a review of all applications, invited 39 candidates to take a common written examination to test their legal expertise and drafting ability. All 39 candidates responded to the invitation and submitted their answers. On the basis of the written test, the Council selected 24 applicants for interviews. In addition, three candidates who had taken the written assessment during a previous selection exercise, in 2014, and who had been interviewed and found qualified by the Council were also invited for interviews.

12. As it had done for the previous rounds of judicial appointments, and with the permission of the recommended candidates, the Council approached the relevant national bar associations for confirmation of the integrity of each candidate called to an interview. Written references were also obtained for each candidate.

13. The eight candidates recommended by the Council for appointment to the vacancies on the Appeals Tribunal, in alphabetical order, are:

(a) Joëlle Adda (France);

(b) Constance Darlene Hunt (Canada);

(c) Sabine Knierim (Germany);

(d) Fiona Monk (United Kingdom of Great Britain and Northern Ireland);

(e) John Raymond Murphy (South Africa);

(f) Dimitrios Raikos (Greece);

(g) Martha Halfeld Furtado de Mendonça Schmidt (Brazil);

(h) Boštjan Zalar (Slovenia).

14. The candidates recommended by the Council for full-time appointment to the Dispute Tribunal in Nairobi and Geneva, in alphabetical order, are:

Geneva

(a) Teresa Maria da Silva Bravo (Portugal);

(b) Vincent Cador (France).

Nairobi

(a) Agnieszka Klonowiecka-Milart (Poland);

(b) Fredrick Indran X. A. Nicholas (Malaysia).

15. The two candidates recommended by the Council for half-time appointment to the Dispute Tribunal, in alphabetical order, are:

(a) Alexander W. Hunter, Jr. (United States of America);

(b) Valérie Laemmel-Juillard (Switzerland).

16. The candidates' curricula vitae are provided in annexes II and III to document A/70/190.

III. Procedure in the General Assembly

17. The appointment of the judges of the Appeals Tribunal will be made in accordance with:

(a) The statute of the Appeals Tribunal;

(b) The rules of procedure of the General Assembly;

(c) The recommendations of the Internal Justice Council as set out in its report to the General Assembly (A/70/190).

18. The appointment of judges to the Appeals Tribunal is addressed in article 3 of its statute, which states as follows:

"1. The Appeals Tribunal shall be composed of seven judges.

"2. The judges shall be appointed by the General Assembly on the recommendation of the Internal Justice Council in accordance with General Assembly resolution 62/228. No two judges shall be of the same nationality. Due regard shall be given to geographical distribution and gender balance.

"3. To be eligible for appointment as a judge, a person shall:

"(a) Be of high moral character and impartial; and

"(b) Possess at least 15 years of aggregate judicial experience in the field of administrative law, employment law or the equivalent within one or more national or international jurisdictions. Relevant academic experience, when combined with practical experience in arbitration or the equivalent, may be taken into account towards 5 of the qualifying 15 years;

"(c) Be fluent, both orally and in writing, in at least one of the working languages of the Appeals Tribunal.

"4. A judge of the Appeals Tribunal shall be appointed for one non-renewable term of seven years. As a transitional measure, three of the judges initially appointed, to be determined by drawing of lots, shall serve three years and may be reappointed to the same Appeals Tribunal for a further non-renewable term of seven years. A current or former judge of the Dispute Tribunal shall not be eligible to serve in the Appeals Tribunal."

19. The appointment of full-time judges and a half-time judge to the Dispute Tribunal will be made in accordance with:

(a) The statute of the Dispute Tribunal;

(b) The rules of procedure of the General Assembly;

(c) The recommendations of the Internal Justice Council as set out in its report to the General Assembly (A/70/190).

20. The appointment of judges to the Dispute Tribunal is addressed in article 4 of its statute, which states as follows:

"1. The Dispute Tribunal shall be composed of three full-time judges and two half-time judges.

"2. The judges shall be appointed by the General Assembly on the recommendation of the Internal Justice Council in accordance with Assembly resolution 62/228. No two judges shall be of the same nationality. Due regard shall be given to geographical distribution and gender balance.

"3. To be eligible for appointment as a judge, a person shall:

"(a) Be of high moral character; and

"(b) Possess at least 10 years of judicial experience in the field of administrative law, or the equivalent within one or more national jurisdictions.

"4. A judge of the Dispute Tribunal shall be appointed for one non-renewable term of seven years. As a transitional measure, two of the judges (one full-time judge and one half-time judge) initially appointed, to be determined by drawing of lots, shall serve three years and may be reappointed

to the same Dispute Tribunal for a further non-renewable term of seven years. A current or former judge of the United Nations Appeals Tribunal shall not be eligible to serve in the Dispute Tribunal."

21. It is proposed that the General Assembly proceed to appoint the judges through an election, held pursuant to the rules of procedure of the Assembly, bearing in mind paragraph 58 of Assembly resolution 63/253, in which the Assembly invited Member States, when electing judges to the Tribunals, to take due consideration of geographical distribution and gender balance.

22. Only those candidates recommended by the Internal Justice Council whose names appear in the present memorandum are eligible for election. The electors in the General Assembly will indicate the candidates for whom they wish to vote by placing a cross against each name on the ballot papers. Each elector may vote for no more than four candidates for the four vacant positions in the Appeals Tribunal and no more than one candidate for each of the three vacant positions in the Dispute Tribunal.

23. Those candidates who obtain the highest number of votes, and a majority of votes in the General Assembly of the members present and voting, will be considered to be elected and thereby appointed by the Assembly to the Tribunals.

24. Balloting shall continue in accordance with the rules of procedure until as many candidates as are required to fill the vacant positions in the Appeals and Dispute Tribunals have obtained, in one or more ballots, a majority of votes of the members present and voting.